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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
to Establish a Demonstration Climate Protection
Program and Tariff Option. (U 39 M)

Application 06-01-012
(Filed June 23, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING FINDING
THE UTILITY REFORM NETWORK AND AGLET
CONSUMER ALLIANCE ELIGIBLE TO CLAIM
INTERVENOR COMPENSATION**

I. Summary

The Utility Reform Network (TURN) and Aglet Consumer Alliance (Aglet) are eligible to claim compensation in this proceeding. However, a finding of eligibility for compensation does not necessarily guarantee an award of compensation. Neither party should duplicate the efforts of other parties in their approach to the issues as it could result in a reduction in the amount of compensation ultimately awarded. Furthermore, both parties' estimates of compensable costs are subject to verification. The requirements of Pub. Util. Code §§ 1801-1804¹ are addressed below.

II. NOI Requirements

A. Timely Filing

Pursuant to § 1804(a)(1), a customer seeking a compensation award shall, within 30 days after the Prehearing Conference (PHC), file and serve a

¹ All statutory references are to Cal. Pub. Util. Code.

Notice of Intent (NOI) to claim compensation on all parties to the proceeding. The first PHC in this proceeding was held on March 16, 2006. Both TURN and Aglet timely filed an NOI on April 17, 2006.

B. Customer Status

Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b). Section 1802(b) defines a “customer” by three categories: 1) a participant representing consumers, 2) a representative authorized by a customer, or 3) a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. (D.98-04-059.) If a party falls into the third category, the party must include a copy of their articles of incorporation or provide reference to a previous filing. (*See id.*) D.98-04-059 also requires applicants to state the percentage of members that are residential customers. (*See id.*)

Both TURN and Aglet qualify as customers under the third category. TURN is a non-profit consumer advocacy organization. As provided in Application (A.) 99-12-024, TURN’s articles of incorporation specifically authorize TURN to represent the interests of residential customers. (A.99-12-024.) The articles of incorporation have not changed since the application was submitted. TURN meets this requirement as it is an organization, as described in § 1802(b)(1)(C), authorized pursuant to its by-laws to represent the interests of their members, many of whom are residential ratepayers. TURN reports that a “vast majority” of its 20,000 members are residential ratepayers. A precise percentage has not been made available.

Aglet is an unincorporated nonprofit association. Its articles of organization and bylaws authorize the group to represent and advocate the

interests of residential and small commercial electrical, gas, water and telephone utility customers. Copies of Aglet's articles and bylaws were attached to an NOI filed on June 11, 1999. (A.99-03-014). The articles have not changed since this filing. Aglet reports 100% its present members are utility customers and 30% operate small businesses with separate utility service.

C. Adequacy of Representation

In order to qualify for compensation, an intervenor must represent an otherwise underrepresented interest. (D.98-04-059.)

Both TURN and Aglet represent the interest of all residential and small commercial customers of Pacific Gas and Electric Company (PG&E). Whereas the Division of Ratepayer Advocates acts on behalf of all customers, Aglet and TURN focus on small customers' specific interests.

D. Significant Financial Hardship

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI or in its initial request for compensation. A finding of significant financial hardship in one proceeding creates a rebuttable presumption of eligibility for compensation in other commission proceedings filed within one year. (§ 1804(b)(1).) Section 1802(g) defines "significant financial hardship" as follows:

"Significant financial hardship" means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate's fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in

comparison to the costs of effective participation in the proceeding.

Both Aglet and TURN have established a rebuttable presumption of eligibility through prior proceedings.

In A.05-02-027, dated November 4, 2005, Administrative Law Judge (ALJ) Pulsifer found a significant financial hardship for TURN. The instant proceeding commenced within one year of that finding. Under § 1804(b)(1), TURN meets the rebuttable presumption of significant hardship.

In A.05-06-6006, dated November 15, 2005, ALJ Malcolm ruled that Aglet met the rebuttable presumption of significant hardship set forth in § 1804(b)(1). The instant proceeding commenced within one year of that finding.

Should any party rebut a presumption of significant hardship, both TURN and Aglet are granted leave to furnish evidence of its significant financial hardship within 10 days of the rebuttal filing.

E. Nature and Extent of Planned Participation

Section 1804(a)(2)(A)(i) requires an NOI to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. Parties must avoid unproductive, unnecessary or duplicative participation in order to meet eligibility requirements.

(§ 1801.3(f).)

TURN intends to participate in all aspects of this proceeding, including serving testimony, participating in hearings, filing post-hearing briefs, and commenting on decisions issued by the Commission. TURN has already met with PG&E on several occasions, filed a protest, attended the PHC and served prepared testimony. TURN also participated in hearings on this application held June 7, 8, 9, and 11, 2006. TURN addressed concerns about the program

administrative costs, the collection of such costs from non-participant ratepayers and the reasonableness of requiring shareholder contributions.

Aglet intends to participate by conducting discovery, preparing testimony, defending testimony in hearings, cross-examining witnesses, and filing necessary pleadings, including briefs. Aglet has already filed a protest to the application, served prepared testimony, attended the prehearing conference and participated in the hearings of this proceeding. Aglet expects to address cost effectiveness, shareholder benefits, fair sharing of program costs and revenue allocation of administrative costs for the program.

In order to minimize duplicative participation, both parties will cooperate and identify material issues of concern.

F. Itemized Estimate of Compensation

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive.

TURN estimates a total projected budget of \$57,075 for this case. TURN utilized the 2005 rates for all anticipated hours and may seek higher hourly rates pursuant to any changes for 2006. The estimate is as follows:

Attorney/ Category	Estimated Hours	Hourly Rate	Estimated Costs
Matthew Freedman	75	\$270	\$20, 250
Nina Suetake	50	\$190	\$9,500
Robert Finkelstein	15	\$395	\$5,925
Amy Roschelle, consultant with Synapse Energy Economics	100	\$150	\$15,000
Bruce Biewald, consultant with Synapse Energy Economics	20	\$170	\$3,400

Other Direct Expenses			\$3,000
Total			\$57,075

Aglet expects to request a total of \$28,140. An itemized estimate is shown in the table below:

Description	Amount
100 hours of professional time by James Weil, at \$250 per hour	\$25,000
12 hours of travel time at \$125 per hour	\$1,500
10 hours of compensation time, at \$125 per hour	\$1,250
Copies	\$100
Postage, overnight delivery	\$100
Travel Costs (vehicle mileage, bridge tolls, parking)	\$150
FAX Charges	\$40

Both TURN and Aglet satisfactorily present itemized estimates of expected compensation. The Commission expects more specificity when the organizations ultimately seek compensation, including the reasonableness of hours spent and hourly rates.

IT IS RULED that:

1. The Utility Reform Network (TURN) and Aglet Consumer Alliance (Aglet) have met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement of significant financial hardship. TURN and Aglet are found eligible for compensation in this proceeding.
2. TURN and Aglet are customers as defined in § 1802(b). Both parties are a group or organization that is authorized to represent the interests of residential ratepayers.
3. A finding of eligibility in no way assures compensation.

4. TURN and Aglet shall make every effort to reduce duplication of contribution.

Dated June 28, 2006, at San Francisco, California.

/s/ SARAH R. THOMAS

Sarah R. Thomas
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is current as of today's date.

Dated June 28, 2006, at San Francisco, California.

/s/ ANTONINA V. SWANSEN

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